

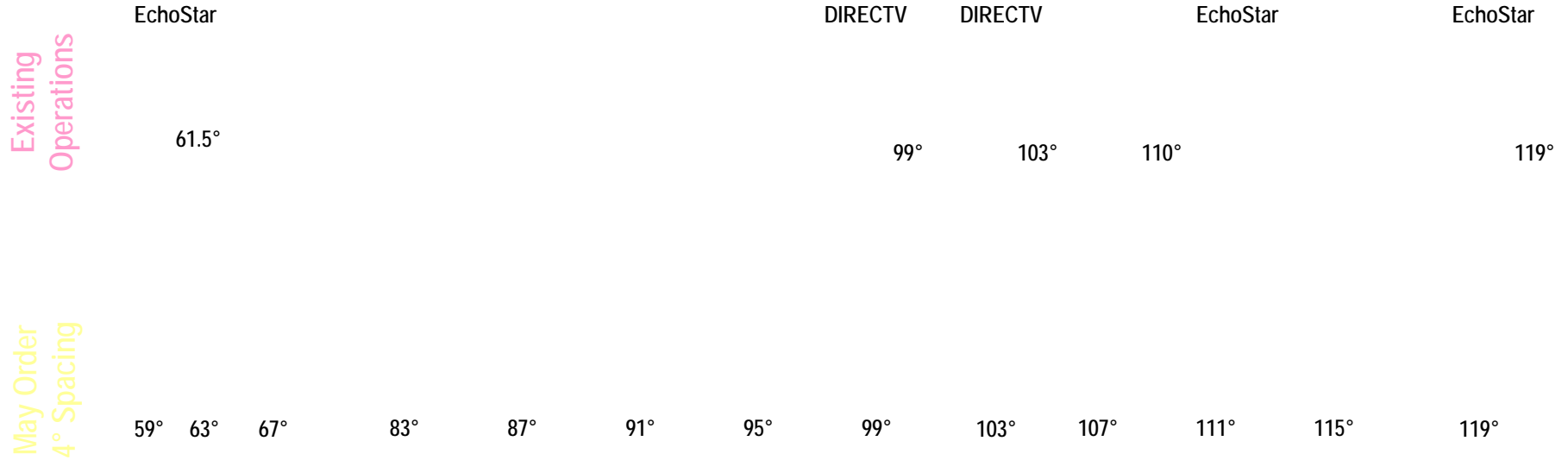


Reverse Band: 17/24 GHz BSS

Harm to Competition and Consumers

- Absent fix, current rules frustrate video competition, harm consumers, and jeopardize delivery of HD services – contradicting the FCC's own stated goals in this proceeding.
- FCC goals include the introduction of services that:
 - "will complement existing DBS services" and
 - "promote increased competition among satellite and terrestrial services."
- 4^o spacing arbitrarily allows only one DBS provider – DIRECTV – to complement existing service.
 - FCC should not pick winners and losers: EchoStar needs flexibility to collocate DBS operations in the same manner as DIRECTV, its chief competitor.

Not a Level Playing Field



- Simple fact: DirecTV's slots line up; EchoStar's don't.

The Solution

FLEXIBILITY PROPOSAL

Licensees should have the flexibility to:

- (a) operate up to 1° off slot;
- (b) permanently;
- (c) at full power; with
- (d) full interference protection.

Need for Quick Action

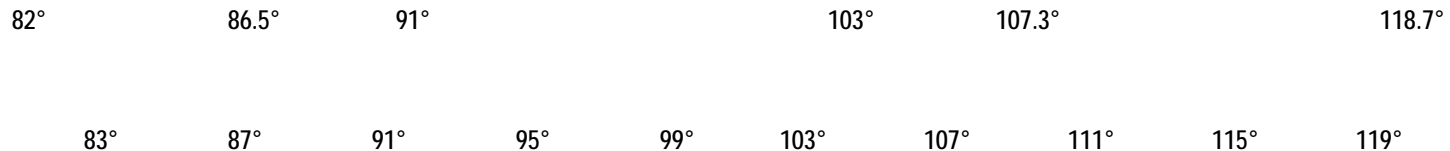
- Current order does not provide adequate flexibility to collocate operations:
 - Reducing power once neighbor arrives is not a practical solution: 40-60% of a \$300 M investment rendered useless and service to consumers disrupted.
- Moving satellite back to “grid” is not viable option: No way to re-point millions of consumer dishes to new location and need to re-start ITU and FCC process for new location.

Efficiency Increased Not Decreased

- Capping flexibility at one degree preserves other uses of the band: **100%** of orbital slots can be used for future services.
- DIRECTV's assertion that flexibility reduces efficiency by 33% ignores ITU priority and inappropriately assumes that all 35 slots could be used for direct-to-home DBS.
 - To the contrary, the May Order acknowledged that later entrants will need to operate "off slot" to maximize use of spectrum if other DBS or ITU operations are "at or very near that location."
 - FCC anticipated that "a wide range of system designs and business plans" will operate in the band, including FSS operations that are based on as little as 2° separation.

New Entrants Helped Not Harmed

- Flexibility will add value to slots sought by later entrants, who will be better able to maneuver around licensees with earlier US and ITU priority.



- Over 60% of US CONUS slots are currently impacted by international filings that have ITU priority, and that number continues to grow.
- Later entrants will be able to make more efficient use of the band if they are able to operate “off slot.”

Need for Certainty

- Business plans require certainty to design systems and secure financing.
- DIRECTV's Waiver Proposal Not a Viable Solution:
 - No way to know outcome of waiver process prior to initial processing round, so don't have full information when choosing slots.
 - Gives DIRECTV "second bite at the apple" to oppose EchoStar's waiver requests and delay rollout of competitor's services.
 - Unpredictable and prolonged waiver process allows foreign operators to get ahead in ITU queue.
 - Consumers wait longer for new services.
 - Adds administrative burden to new entrants seeking flexibility.

Consumers Harmed if FCC Fails to Act

- Higher Prices
 - Inability to make efficient use of spectrum through collocation of facilities hinders ability to compete with cable and telcos.
 - Without a fix, DIRECTV would gain an unfair competitive advantage, which could harm competition and drive up prices. *But DIRECTV is NOT harmed in any way by flexibility proposal.*
- Delays New Services
 - Reverse Band spectrum desperately needed to provide new HD services, including any must carry stations.
- Second Dish
 - Inability to collocate operations forces consumers to acquire second dish.



No single dish solution is possible for 111° at full power and interference protection.

Timing is Critical

- Quick Action Needed:
 - The FCC needs to remedy the inequity created by the May Order, so that that the Bureau can process pending applications.
 - Foreign-licensed operations continue to gain ITU priority while US licensees wait for FCC to act.
 - Freeze on new applications remains in place until new applications are amended.
 - Plans for new services on hold: New satellites require 4-5 year lead time for design, build, and launch.
- Delay Harms Consumers
 - No current or future operators are harmed by the proposal, but failure to act harms consumers and competition.

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